

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRANCESCO GALLO,

Plaintiff,

-against-

ALITALIA – LINEE AEREE ITALIANE –
SOCIETA PER AZIONI, PIERANDREA GALLI,
and GIULIO LIBUTTI,

Defendants.

Case No. 07 CV 06418 (CM)(RLE)

**AFFIRMATION OF ALAN M.
KORAL IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT**

ALAN M. KORAL, an attorney duly admitted to practice before the courts of the State of New York, affirms upon penalty of perjury that the following statements are true:

1. I am a shareholder with the firm of Vedder Price, P.C., 1633 Broadway, New York, New York 10019, counsel for defendants Alitalia Linee Aeree Italiane, S.p.A. (“Alitalia”), Pierandrea Galli (“Galli”) and Giulio Libutti (“Libutti”)(collectively “Defendants”) in the above-captioned action. I submit this Affirmation in support of Defendants’ motions for Summary Judgment,¹ pursuant to FRCP 56, for dismissal of all claims in the Amended Complaint of plaintiff Francesco Gallo (“Plaintiff”). I am fully familiar with the facts and circumstances set forth herein.

2. The points and authorities in support of Defendant’s motion for summary judgment dismissing the Complaint are set forth in full in the accompanying Memorandum of Law and will not be repeated here. The purpose of this Declaration is to place before the Court

¹ There are two motions for summary judgment—the Alitalia motion and the Galli/Libutti motion.

documents that are referred to in that Memorandum of Law and in the accompanying Statement of Uncontested Material Facts supporting this motion.

3. Attached hereto as Exhibit A in accordance with Rule 2(D) of the Court is an index of Exhibits 1 to 64. Each entry is separately tabbed, and only those deposition pages containing relevant testimony are attached.

4. Attached as Exhibit 1 hereto are copies in minuscrit form of pages 38-41 of the January 28, 2008 deposition of Galli referenced in the accompanying filings in support of Defendants' motions for summary judgment;

5. Attached as Exhibit 2 hereto are copies in minuscrit form of pages 10-13 of the January 28, 2008 deposition of Galli referenced in the accompanying filings in support of Defendants' motions for summary judgment;

6. Attached as Exhibit 3 hereto is a true and correct copy of page 17 of the March 12, 2008 deposition of Andrea Porru referenced in the accompanying filings in support of Defendants' motions for summary judgment;

7. Attached as Exhibit 4 hereto is a true and correct copy of Defendant's Response to Plaintiff's Second Set of Interrogatories, dated April 21, 2008, in the civil proceeding *Ester Lorusso v. Alitalia Linee Aeree Italiane S.p.A.*, Case No. 07 CV 06418, (the "*Lorusso* matter") referenced in the accompanying filings in support of Defendants' motions for summary judgment;

8. Attached as Exhibit 5 hereto is a true and correct copy of the September 15, 2005 agreement ("Severance Agreement") between Plaintiff and Alitalia, bearing the Bate stamp numbers A 00001-02;

9. Attached as Exhibit 6 hereto are copies in minuscrit form of pages 192-99 of the March 13, 2008 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

10. Attached as Exhibit 7 hereto is a true and correct copy of a letter dated March 13, 2007 from Andrea Porru to Plaintiff, bearing the Bate stamp numbers A 00029-30;

11. Attached as Exhibit 8 hereto is a true and correct copy of an e-mail string, the most recent of which was sent on April 4, 2007 from Daniele Landini to Andrea Porru, with copies to Thierry Aucoc and Angela Ross, bearing the Bate stamp numbers A 00450-53;

12. Attached as Exhibit 9 hereto is a true and correct copy of a spreadsheet dated April 2, 2007 reflecting the transfer of forty seven thousand dollars (\$47,000) from Alitalia to Plaintiff, bearing the Bate stamp number A 00031;

13. Attached as Exhibit 10 hereto are copies in minuscrit form of pages 74-77 of the January 28, 2008 deposition of Galli referenced in the accompanying filings in support of Defendants' motions for summary judgment;

14. Attached as Exhibit 11 hereto is a true and correct copy of a memorandum dated March 6, 2006 from Giancarlo Cimoli and related audit summaries, with certified translation from Italian to English attached, bearing the Bate stamp numbers A 00003-17;

15. Attached as Exhibit 12 hereto are copies in minuscrit form of pages 146-49 of the January 28, 2008 deposition of Galli referenced in the accompanying filings in support of Defendants' motions for summary judgment;

16. Attached as Exhibit 13 hereto is a true and correct copy of a memorandum dated May 11, 2006 from Marco Scippa and Galli, with certified translation from Italian to English attached, bearing the Bate stamp numbers A 00018-21;

17. Attached as Exhibit 14 hereto is a true and correct copy of an e-mail string, the most recent of which was sent on May 25, 2006 from Luca Bruni, with certified translation from Italian to English attached, bearing the Bate stamp numbers A 00025-26;

18. Attached as Exhibit 15 hereto are copies in minuscrit form of pages 244-47 of the March 13, 2008 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

19. Attached as Exhibit 16 hereto are copies in minuscrit form of pages 66-69 of the January 22, 2008 deposition of Libutti referenced in the accompanying filings in support of Defendants' motions for summary judgment;

20. Attached as Exhibit 17 hereto is a true and correct copy of a letter dated May 23, 2006 from Libutti to Plaintiff, bearing the Bate stamp number A 00056;

21. Attached as Exhibit 18 hereto are copies in minuscrit form of pages 82-85 of the January 22, 2008 deposition of Libutti referenced in the accompanying filings in support of Defendants' motions for summary judgment;

22. Attached as Exhibit 19 hereto is a true and correct copy of Plaintiff's Notice and Proof of Claim of Disability Benefits, bearing the Bate stamp number A 00104-05.

23. Attached as Exhibit 20 hereto is a true and correct copy of Claimant's Supplemental Statement in support of Plaintiff's Notice and Proof of Claim and Disability Benefits, bearing the Bate stamp number A 00102-03.

24. Attached as Exhibit 21 hereto are copies in minuscrit form of pages 110-17 of the December 20, 2007 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

25. Attached as Exhibit 22 hereto is a true and correct copy of a letter dated January 8, 2007 from Stefan Stein, M.D. addressing his treatment and diagnosis of Plaintiff;

26. Attached as Exhibit 23 hereto are copies in minuscrit form of pages 54-61 of the December 20, 2007 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

27. Attached as Exhibit 24 hereto are copies in minuscrit form of pages 90-93 of the December 20, 2007 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

28. Attached as Exhibit 25 hereto is a true and correct copy of a letter dated May 25, 2006 from John J. Caronna, M.D. to Dr. Michael Zullo addressing his treatment and diagnosis of Plaintiff;

29. Attached as Exhibit 26 hereto are copies in minuscrit form of pages 240-43 of the March 13, 2008 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

30. Attached as Exhibit 27 hereto is a true and correct copy of a letter dated June 11, 2007 from Unum Provident regarding Plaintiff's eligibility for benefits under its disability plan, bearing the Bate stamp numbers A 00106-10;

31. Attached as Exhibit 28 hereto are copies in minuscrit form of pages 196-99 of the March 13, 2008 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

32. Attached as Exhibit 29 hereto are copies in minuscrit form of pages 22-29 of the December 20, 2007 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

33. Attached as Exhibit 30 hereto are copies in minuscrit form of pages 212-23 of the March 13, 2008 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

34. Attached as Exhibit 31 hereto is a true and correct copy of page 162 of the March 13, 2008 deposition of Plaintiff in the *Lorusso* matter referenced in the accompanying filings in support of Defendants' motions for summary judgment;

35. Attached as Exhibit 32 hereto are copies in minuscrit form of pages 162-81 of the December 20, 2007 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

36. Attached as Exhibit 33 hereto are true and correct copies of pages 37-39 of the March 12, 2008 deposition of Angela M. Ross referenced in the accompanying filings in support of Defendants' motions for summary judgment;

37. Attached as Exhibit 34 hereto are true and correct copies of pages 177-78 of the March 13, 2008 deposition of Plaintiff in the *Lorusso* matter referenced in the accompanying filings in support of Defendants' motions for summary judgment;

38. Attached as Exhibit 35 hereto is a true and correct copy of page 10 of the March 12, 2008 deposition of Angela M. Ross referenced in the accompanying filings in support of Defendants' motions for summary judgment;

39. Attached as Exhibit 36 hereto is a true and correct copy of page 14 of the January 8, 2008 deposition of Angela M. Ross in the *Lorusso* matter referenced in the accompanying filings in support of Defendants' motions for summary judgment;

40. Attached as Exhibit 37 hereto is a true and correct copy of a spreadsheet indicating those employees who were invited to participate in Alitalia's Early Retirement Plan ("ERP") in 2004 and 2005, bearing the Bate stamp numbers A 00592-97;

41. Attached as Exhibit 38 hereto is a true and correct copy of a) a spreadsheet indicating those employees who departed the company from January 1, 2004 to December 31, 2007, and the reasons for their departure, bearing the Bate stamp numbers A 00379-81, and b) a memorandum dated January 4, 2008 from counsel for Defendants to counsel for Plaintiff updating said spreadsheet, bearing the Bate stamp numbers A 00382-83;

42. Attached as Exhibit 39 hereto are copies in minuscrit form of pages 292-307 of the March 13, 2008 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

43. Attached as Exhibit 40 hereto are copies in minuscrit form of pages 18-21 of the January 22, 2008 deposition of Libutti referenced in the accompanying filings in support of Defendants' motions for summary judgment;

44. Attached as Exhibit 41 hereto are copies in minuscrit form of pages 150-57 of the January 28, 2008 deposition of Galli referenced in the accompanying filings in support of Defendants' motions for summary judgment;

45. Attached as Exhibit 42 hereto are copies in minuscrit form of pages 50-53 of the January 22, 2008 deposition of Libutti referenced in the accompanying filings in support of Defendants' motions for summary judgment;

46. Attached as Exhibit 43 hereto is a true and correct copy of page 24 of the March 12, 2008 deposition of Andrea Porru referenced in the accompanying filings in support of Defendants' motions for summary judgment;

47. Attached as Exhibit 44 hereto are true and correct copies of pages 14-16 and 36 of the March 12, 2008 deposition of Angela M. Ross referenced in the accompanying filings in support of Defendants' motions for summary judgment;

48. Attached as Exhibit 45 hereto are true and correct copies of pages 7-8 of the March 12, 2008 deposition of Linda Lopez referenced in the accompanying filings in support of Defendants' motions for summary judgment;

49. Attached as Exhibit 46 hereto are true and correct copies of pages 17-18 of the March 12, 2008 deposition of Maurizio Di Domenico referenced in the accompanying filings in support of Defendants' motions for summary judgment;

50. Attached as Exhibit 47 hereto is a true and correct copy of page 11 of the March 31, 2008 deposition of Francesco Cesari referenced in the accompanying filings in support of Defendants' motions for summary judgment;

51. Attached as Exhibit 48 hereto are true and correct copies of pages 27-28 of the March 12, 2008 deposition of Marco D'Ilario referenced in the accompanying filings in support of Defendants' motions for summary judgment;

52. Attached as Exhibit 49 hereto are copies in minuscrit form of pages 58-61 of the January 22, 2008 deposition of Libutti referenced in the accompanying filings in support of Defendants' motions for summary judgment;

53. Attached as Exhibit 50 hereto is a true and correct copy of page 172 of the March 13, 2008 deposition of Plaintiff in the *Lorusso* matter referenced in the accompanying filings in support of Defendants' motions for summary judgment;

54. Attached as Exhibit 51 hereto are copies in minuscrit form of pages 62-65 of the January 28, 2008 deposition of Galli referenced in the accompanying filings in support of Defendants' motions for summary judgment;

55. Attached as Exhibit 52 hereto are copies in minuscrit form of pages 146-49 of the December 20, 2007 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

56. Attached as Exhibit 53 hereto is a true and correct copy of the responses of Leopoldo Conforti to Plaintiff's Court Ordered Special Interrogatories;

57. Attached as Exhibit 54 hereto is a true and correct copy of a letter dated June 5, 2006 from Richard S. Corenthal to Leopoldo Conforti, bearing the Bate stamp number A 00059;

58. Attached as Exhibit 55 hereto is a true and correct copy of a letter dated June 7, 2006 from Alan M. Koral to Richard S. Corenthal, bearing the Bate stamp number A 00060;

59. At or around June 9, 2006, I spoke with Richard S. Corenthal, counsel for Dursun Oksuz, who informed me that Oksuz accused Plaintiff of seducing him, of engaging in frequent anal intercourse with Oksuz, of sexually harassing him at work, and of abusing his authority by giving Oksuz a promotion to entice him into staying at Alitalia and so further facilitate these liaisons;

60. Attached as Exhibit 56 hereto is a true and correct copy of a letter dated June 14, 2006 from Richard S. Corenthal to Alan M. Koral, with attachments, bearing the Bate stamp numbers A 00065-89;

61. Attached as Exhibit 57 hereto are copies in minuscrit form of pages 70-73 of the January 22, 2008 deposition of Libutti referenced in the accompanying filings in support of Defendants' motions for summary judgment;

62. Attached as Exhibit 58 hereto are copies in minuscrit form of pages 256-59 of the March 13, 2008 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

63. Attached as Exhibit 59 hereto are copies in minuscrit form of pages 62-73 of the December 20, 2007 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

64. Attached as Exhibit 60 hereto is a true and correct copy of the Charge of Discrimination filed with the New York State Division of Human Rights by Dursun Oksuz against Plaintiff and Alitalia, bearing the Bate stamp numbers A 00090-94;

65. Attached as Exhibit 61 are true and correct copies of 1) a letter from Libutti and Marco Marchese to Dursun Oksuz dated December 10, 2004, bearing the Bate stamp number A 00098; 2) a letter from Libutti and Marco Marchese to Dursun Oksuz dated January 31, 2006, bearing the Bate stamp number A 00097; and 3) a letter from Plaintiff and Marco Marchese to Dursun Oksuz dated February 24, 2006, bearing the Bate stamp number A 00096;

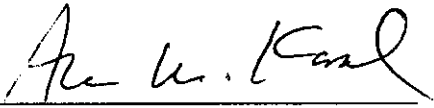
66. Attached as Exhibit 62 hereto are copies in minuscrit form of pages 272-75 of the March 13, 2008 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

67. Attached as Exhibit 63 hereto are copies in minuscrit form of pages 34-45 and 78-81 of the December 20, 2007 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment;

68. Attached as Exhibit 64 hereto are copies in minuscrit form of pages 260-67 of the March 13, 2008 deposition of Plaintiff referenced in the accompanying filings in support of Defendants' motions for summary judgment.

69. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DATED: April 28, 2008
New York, New York



Alan M. Koral